

MINUTES OF MEETING OF BOARD OF PUBLIC WORKS OF SEPTEMBER 24TH, 1935.

The Board of Public Works met in the offices of the Board of Public Works, Union Trust Building, Baltimore, on Tuesday, September 24th, 1935, at three o'clock, P.M.

Present:

Harry W. Nice, Governor.
Wm. S. Gordy, Jr., Comptroller.
Hooper S. Miles, Treasurer.

Mr. Wm. H. Blakeman, State Budget Director, attended the meeting.

The question of the restoration of salaries of the employees at the office of the Clerk of the Court of Appeals was considered.

It was decided to allot from the Emergency Reserve Fund to the Clerk of the Court of Appeals to supplement his budget for the fiscal year 1936 the amount of \$512.00 to be divided as follows -

To supplement salary of Chief Deputy Clerk -	\$214.00
to supplement salary of two Deputy Clerks -	219.00
to supplement salary of Stenographer -	79.00
	<u>\$512.00</u>

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Mr. Blakeman took up with the Board the question of allotting some additional funds out of the Emergency Reserve Fund for 1936 to the State Tax Commission to take care of the employment of two additional employees for that department.

After giving the matter due consideration the Board agreed to allot to the Commission the sum of \$2,868.00.

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The following letter from the State Tobacco Warehouse, dated September 24th, 1935, was read and considered -

STATE TOBACCO WAREHOUSE
BALTIMORE MARYLAND

September 24, 1935.

To the Honorable Board of Public Works,
Baltimore, Maryland.

Gentlemen:-

At the request of Mr. Prior, President of the Loose Leaf Tobacco Association of Baltimore, I am writing to ask that gasoline tanks not be permitted to be installed in a garage on Perry Street, Baltimore, very close to the State Tobacco Warehouse No. 5.

The parties interested in the installation have asked for a permit, but because of the close proximity of the site to Tobacco Warehouse No. 5, the installation of a tank would be a decided fire hazard to the large number of hogsheads of tobacco stored in the warehouse, and would increase greatly the cost of insurance.

As the warehouse is the property of the State of Maryland, and as it comes under the Honorable Board of Public Works, I am taking the liberty of calling this matter to your attention.

Respectfully yours,

/s/ Albert J. Lomax,

Inspector.

The Board requested Mr. Blakeman to get in touch with the Attorney General's Office and to make investigation of the proposed location of gasoline tanks in the vicinity of the State Tobacco Warehouse as outlined in Mr. Lomax' letter.

It was agreed that in the event the State should make some protest against the granting of a permit by Baltimore City for the erection of the gasoline tanks that the Attorney General should represent the State in opposition to the granting of the permit.

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The Board considered the question of the levy included in Chapter 91 of the Acts of the General Assembly of Maryland of 1935 to service the loan in the year 1936 under the terms of the Act mentioned. The levy is made for 1936 of ~~one~~ one and one-quarter cent on each \$100.00 of assessable property, but the Act further provides that in the event the Board shall

determine that the receipts from Collateral Inheritance tax and the Direct Tax as imposed under an Act of the General Assembly of 1935 are sufficient to service the Loan and to create the Reserve Fund called for by the law, this information should be certified to the Governor, who in turn would issue a Proclamation eliminating the levy of one and one-quarter cents from the 1936 tax rate.

The Board was of the opinion that the receipts accruing from the additional Collateral Inheritance Tax and from the Direct Tax would be sufficient to service the Loan, and create the Reserve Fund, although the receipts would not reach the Treasury until sometime during the year 1936, probably the latter part of that year due to the fact that the receipts from these taxes would come from estates of persons dying subsequent to the passage of the Act levying the taxes, and under the law executors and administrators would be entitled to a year in which to make payment of the tax.

It was decided that the matter would be given further consideration between the time of this meeting and the next meeting of the Board, at which time a resolution could be offered and approved by the Board declaring it to be the opinion of the Board that it would not be necessary to collect the levy of one and one-quarter cent in 1936 to service the Loan for that year.

The following letter from the Attorney General, dated September 13th, 1935, relative to the claim of the State Comptroller's Office against the American Oil Company, for gasoline tax, was read and considered -

THE STATE LAW DEPARTMENT

September 13th, 1935.

Hon. William S. Gordy, Jr.,
State Comptroller,
Annapolis, Maryland.

Dear Mr. Gordy:-

In re: Gordy, Comptroller vs.
American Oil Company.

The above case was reached for trial on September 9th, 1935, in the Superior Court of Baltimore City. After protracted conferences between this Department and the attorneys for the defendant, the case was postponed for two weeks to enable you to consider and approve, if you so decide, as

a final disposition of the case, a payment by the defendants of the sum of \$42,324.78, out of a total claim of \$43,327.28, an abatement by the State of four months' taxes in 1926.

The claim in this case arises from an additional tax due by the American Oil Company upon gasoline sold at the South Washington, Virginia plant to Maryland stations of Lord Baltimore Filling Stations, Inc. for the years 1926 to 1930 inclusive. The tax on this gasoline had been paid by the American Oil Company to the District of Columbia and a claim for refund is now pending in the District. An analysis of our claim by years is as follows:

1926 - (2¢ Tax) -	\$1002.50
1927 - (2¢ Tax) -	518.48
1927- (4¢ Tax*) -	6946.48
1928 - (") -	7306.64
1929 - (") -	8,744.60
1930 - (") -	18,808.68

The American Oil's mistake in the payment of this tax to the District of Columbia authorities was discovered when your auditors, working with representatives from the State of Virginia, made a check of the records found at the South Washington plant. The original sales tickets were not discovered. However, by searching the Oil Company's records at the main office of the Lord Baltimore Filling Station, Inc., monthly bills from the South Washington branch to the Lord Baltimore Station were discovered from the period beginning September 1926 down to date. These bills included all sales made at the South Washington branch to the Lord Baltimore Station. Among these was Station No. 8, which is the only Maryland station concerned (Wisconsin and Western Avenues, near Washington). Your auditors checked the total gallonage by month and the kinds of gasoline. In addition, the Virginia tax representatives made photostatic copies of each monthly bill upon a Recordak machine. These photostatic copies would be available for trial.

The weakness of our case from a legal standpoint is three fold. In the first place the monthly bills, which are the basis of our claim, are not the original sales records but are merely a recapitulation by months of the amount of gasoline sold. This is but secondary evidence and would be opened to attack in the hands of a cross-examiner.

Secondly, we understand that during this entire period the American Oil Company was paying a blanket tax to the State of Maryland, supposedly covering all gasoline sold in Maryland. There was at that time no analysis of that payment to show whether or not Station no. 8 was included therein. Since the defendants filed a general denial that the tax was due, the defense would be opened to them that they had already paid the tax on this Station and it was included in the blanket tax payment.

Thirdly, Maryland in 1929 passed a four year statute of limitations Act on collection of these tax payments; while this limitations' law was repealed as to State taxes by the 1933 Special Session Legislature it was in effect during part of the time for which this tax is claimed. In our opinion the repeal completely eliminated the defense of limitations but this undoubtedly presents a question of law which might take to the Court of Appeals and, if successful, would bar the claim or part of it.

The proof seems less definite for the early years than for the later years and it seems to us that it would be a very satisfactory disposition of the entire case if the State abates the taxes for the three months of the year 1926 upon condition that the other years sued for be paid in full and at once.

Therefore I recommend that this abatement be made by the State by the payment to the State of the taxes due for the years 1927 to 1930 inclusive, or a total payment of \$42,324.78. The abatement for the year 1926 represents a concession of only \$1002.50 of our claim.

If this abatement meets with your approval, by virtue of Section 37 of Article 19 of the Code, will you have the Governor and the Treasurer approve same in duplicate, one copy for this Department and one copy for your office. Upon return of an executed copy, we shall prepare a proper release and proceed to execute the abatement and close the case in strict conformity with Section 37 aforesaid.

Yours very truly,

/s/ Herbert R. O'Connor.

Attorney General.

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The Board approved the settlement outlined in the Attorney General's letter.

The Secretary presented to the Board for execution a deed from the State Roads Commission and the Board of Public Works to George R. Meyers of Cumberland, Maryland, whereby certain property not needed for State roads purposes was sold to Mr. Myers. The usual copies of resolution of the State Roads Commission accompanied the deed.

The Board approved the transaction and authorized the execution of the deed by the members of the Board.

The following letter from Mr. H. C. Byrd, Acting-President, University of Maryland, was read and considered

UNIVERSITY OF MARYLAND

September 24, 1935.

Mr. J. O. McCusker,
Secretary, Board of Public Works,
Office of Comptroller,
Annapolis, Md.

Dear Mr. McCusker:

The Board of Regents of the University of Maryland at a meeting held on September 20, 1935, unanimously approved the write-off of certain old accounts totaling \$7,620.14.

These accounts are summarized as follows:

Student accounts receivable.	\$7,348.39
Accounts receivable, Marketing Inspection Service - -	171.76
Uncollectible checks	99.99
	<u>7,620.14</u>

The student accounts referred to above date from 1920 to 1933. In many instances, through our efforts to collect these accounts, new notes have been accepted which would appear to make the accounts more recent, since the latest due date is shown on the attached detailed list. Continued effort will be made to collect these accounts, and the action of the Board of Regents was that these accounts be held in suspense even though charged off. Future collections will be covered into our general receipts.

The authority of the Board of Public Works is hereby requested to charge off these accounts and thus clear our record of these items which appear uncollectible.

This action was taken on suggestion of the State Auditor and Comptroller's Office.

Very truly yours,

/s/ H. C. Byrd,
Acting-President.

The request of the University of Maryland for authority to charge off the accounts covered in the foregoing letter as uncollectible was granted.

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The following letter from the Conservation Department, dated September 19, 1935, was read and considered -

CONSERVATION DEPARTMENT

Baltimore, Maryland.
September 19, 1935.

Board of Public Works,
Union Trust Building,
Baltimore, Maryland.

Gentlemen:-

This Department would like to have permission to sell the power boat DORCHESTER.

This boat is badly in need of repairs and the best price we have been offered so far is two hundred dollars (\$200.00). We consider this a very good offer and shall appreciate very much your permission to sell it.

Yours very truly,

/s/ Frank L. Bentz.

Chief Clerk.

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The Board approved the request of the Conservation Department that it be allowed to sell the power boat DORCHESTER in accordance with the terms stated in the foregoing letter.

Mr. Blakeman, State Budget Director, reported to the Board that he had been in touch with various State Departments with a view to ascertaining how much of the Reserve Fund allotted to those departments at the beginning of the current fiscal year could be returned or recalled by the State Treasury.

Mr. Blakeman submitted the following list-

Sept 18 -	Springfield State Hospital	\$5,000	
" 18 -	Industrial Accident Commission	5,000	
" 18 -	State Board of Health	5,000	
" 24 -	State Tax Commission	500	
" 24 -	Bank Commission	7,500	
" 24 -m	Board of State Aid and Charity	6,000	
" 24 -	Labor and Statistics	500	
" 24 -	Md. Training School for Boys	1,500	
" 24 -	Rosewood Training School	500	
" 24 -	State Board of Health	3,000	
" 24 -	Springfield State Hospital	<u>14,000</u>	48,500

Mr. Blakeman also took up with the Board the reallocation of the money above referred to so that various State departments and agencies would be able to take care of the payment of all of their obligations to the end of the fiscal year.

The following reallocations were approved by the Board

Montrose School for Girls	\$2,689.46	Sept.18
Salisbury Normal School	2,794.70	" 18
Tuberculosis Sanatoria	8,500.00	" 24
Conservation Commission	5,348.21	" 24
School for the Deaf	2,875.00	" 24
Bowie Normal School	935.00	" 24
Penal Institutions (about)	13,000.00	" 24
Springfield (Plumbing Repairs)	<u>10,000.00</u>	" 24
	46,142.37	

Mr. Blakeman presented to the Board complete copies of University of Maryland Budget for the fiscal year 1936. These Budgets were approved by the Governor being amendments to the appropriations in the Acts of 1936 and taking into consideration the allotments to the University out of the Reserve Fund.

There being no further business the meeting adjourned.


Secretary.